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# **PRELIMINARY DRAFT**

## **No. 3206**

**PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2014 GENERAL ASSEMBLY**

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### **DIGEST**

**Citations Affected:** IC 29-1-8.

**Synopsis:** Probate administration. Specifies that the procedures for dispensing with the administration of small estates are available to distributees and persons acting on behalf of distributees rather than persons claiming to be entitled to payment from the decedent's estate.

**Effective:** July 1, 2014.



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 29-1-8-1, AS AMENDED BY P.L.61-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Forty-five (45) days after the death of a decedent and upon being presented an affidavit that complies with subsection (b), a person:

- (1) indebted to the decedent; or
- (2) having possession of personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent;

shall make payment of the indebtedness or deliver the personal property or the instrument evidencing a debt, an obligation, a stock, or a chose in action to a ~~person~~ **distributee** claiming to be entitled to payment or delivery of property of the decedent **as alleged in the affidavit.**

(b) The affidavit required by subsection (a) must be an affidavit made by or on behalf of the ~~claimant~~ **distributee** and must state the following:

- (1) That the value of the gross probate estate, wherever located (less liens and encumbrances), does not exceed fifty thousand dollars (\$50,000).
- (2) That forty-five (45) days have elapsed since the death of the decedent.
- (3) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.
- (4) The name and address of each ~~other person~~ **distributee** that is entitled to a share of the property and the part of the property to which each ~~person~~ **distributee** is entitled.
- (5) That the ~~claimant~~ **affiant** has notified each ~~person~~ **distributee** identified in the affidavit of the ~~claimant's~~ **affiant's** intention to present an affidavit under this section.



(6) That the ~~claimant~~ **affiant** is entitled to payment or delivery of the property on behalf of each ~~person~~ **distributee** identified in the affidavit.

(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and (b)(6). The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a ~~claimant~~ **distributee** upon the presentation of an affidavit as provided in subsection (a).

(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

SECTION 2. IC 29-1-8-4.5, AS AMENDED BY P.L.61-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4.5. ~~The person claiming to be~~ **A distributee** entitled to payment or delivery of the property belonging to the decedent ~~or someone acting on a distributee's behalf~~ may present to the court having jurisdiction over the decedent's estate an affidavit containing a statement of the conditions required under ~~section (1)(b)~~ **section 1(b)** of this chapter. Upon receipt of the affidavit, the court may, without notice and hearing, enter an order that the ~~claimant~~ **is distributees identified in the affidavit are** entitled to payment or delivery of the property.

